

## Exhibit B

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# DRAFT RESOLUTION

## Before the Zoning Administrator in and for the County of Monterey, State of California

In the matter of the application of:

**DAY KEITH W & MICHELLE E TRS (PLN200247)**

**RESOLUTION NO. \_\_\_\_\_**

Resolution by the County of Monterey Zoning  
Administrator:

- 1) Finding the project exempt from CEQA pursuant to Section 15304 of the CEQA Guidelines and that none of the exceptions to this exemption listed in Section 15300.2 of the CEQA Guidelines apply; and
- 2) Approving an after-the-fact Use Permit to partially clear a Code Enforcement violation (20CE00206) and allow an agricultural support facility consisting of a storage site for finished compost product.

[PLN200247, DAY KEITH W & MICHELLE E TRS, 30053 SHORT RD., GONZALES, CENTRAL SALINAS VALLEY AREA PLAN (APN: 216-032-015-000 & 216-032-016-000)]

The **DAY KEITH W & MICHELLE E TRS application (PLN200247)** came on for public hearing before the County of Monterey Zoning Administrator on September 12, 2024 and September 26, 2024. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

### FINDINGS

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the 2010 County of Monterey General Plan;
  - Central Salinas Valley Area Plan; and
  - County of Monterey Zoning Ordinance (Title 21).No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.  
b) Allowed Use. The property is located at 30053 Short Road, Gonzales (Assessor's Parcel Numbers 216-032-015-000 & 216-032-016-000), Central Salinas Valley Area Plan. The parcel is zoned Farmlands with a

40 acre minimum or “F/40,” which allows agricultural support facilities subject to the approval of a Use Permit in each case. The proposed project is for an after-the-fact establishment of an agricultural support facility involving a storage site of finished compost. Therefore, the project is an allowed land use for this site.

- c) Lot Legality. The subject property (51.665 acres in size), APNs: APN: 216-032-015-000 & 216-032-016-000, is identified as Parcel A of Robert Silacci, Et Al and Merrill Farms as shown in its current size and configuration on Record of Survey, Volume 22, Page 55, recorded March 11, 1999. Therefore, the County recognizes the subject property as a legal lot of record.
- d) The project applicant is a trucking and compost operations entity, that owns the Keith Day Company. The 51.665 acre property would function solely as a storage site for finished compost materials received from ReGen in Marina, CA. Finished compost material would be delivered to end users throughout Salinas Valley, who are typically agricultural operators. Approximately 50,000 cubic yards of material would be stored and transported through the site yearly with an average of approximately 173 truckloads a month and 14 – 20 trips a day. The facility would be a fully open-air storage site with no permanent structures proposed for the operation.
- e) The storage site is not open to the public and would operate year-round. Hours of Operation include 6:00 AM to 5:00 PM during peak season (June – November) and 7:00 AM to 4:00 PM during the slow season (December – May). The operation includes 2 to 3 employees who are not stationed full-time and would come and go as deliveries and shipments for compost material are scheduled. Loaders and water trucks would be used to maintain and load compost materials on-site.
- f) Parking. The open-air storage site makes up a majority of the facility operation area with a small portion designated for employee parking and parking of equipment work vehicles not limited to semi-trucks, trailers, loader water trucks, spreader trucks, and trommel screens.
- g) Signage. Other than existing street names and a small Keith Day Trucking sign, no further signage is proposed or needed.
- h) Agricultural Support Uses. The project is consistent with the 2010 County of Monterey General Plan Chapter 6.0 (Agriculture Element) which states the establishment and retention of a broad range of agricultural support businesses and services to enhance the full development potential of the agricultural industry in the County shall be encouraged and supported (Policy AG-2.2), as well as collaboration with agricultural businesses and organizations to promote a healthy and competitive agricultural industry whose products are recognized as being produced in Monterey County shall be supported and encouraged (Policy AG-2.7). The proposed project is a storage site for finished compost material that is sold to agricultural operators throughout Salinas Valley.
- i) Land Use Advisory Committee (LUAC) Review. The subject property is located within the Central Salinas Area Plan. Currently, there is no Land Use Advisory Committee (LUAC) for the area. Therefore, the project was not sent to a LUAC for review.



- j) Agricultural Advisory Committee (AAC) Review. The project was referred to the Agriculture Advisory Committee (AAC) for review on January 25, 2024. The members unanimously recommended approval by a vote of 9 – 0, with 3 members absent, to support the project without further recommendations nor conditions.
- k) The project planner conducted a site inspection on July 27, 2023, to verify that the project on the subject parcel conforms to the plans listed above.
- l) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in Project File PLN200247.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

**EVIDENCE:** a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and Gonzales Rural Fire Protection District. County staff reviewed the application materials and plans to verify that the project on the subject site conforms to the applicable plans and regulations, and there has been no indication from these departments/agencies that the site is not suitable for the development. Conditions recommended have been incorporated.

- b) Staff identified potential impacts to biological resources and the 100-year floodplain. The following reports have been prepared:
  - Biological Assessment (LIB230348) dated April 29, 2023, and revised July 6, 2023, prepared by Jeffrey B. Froke, Pebble Beach, CA.
  - Hydraulic Assessment Report (LIB240236) dated April 30, 2020, prepared by David Brown, Shasta Lake, CA.

County staff independently reviewed the reports and concurs with their conclusions. There are no physical or environmental constraints that would indicate that the site is not suitable for the use. All development shall be in accordance with these reports.

- c) During the biological assessment, Froke found no evidence of rare and/or endangered species during the April 2023 site visit. The assessment concluded with the property having no habitable egg-worthy or larval-worthy pools close to the banks or shallows anywhere close to the Keith Day property nor does the property contain any CNDDB data read-out.
- d) The hydraulic assessment identifies that a maximum of 1-foot vertical rise in Water Surface Elevation (WSEL) from baseline conditions has been indicated as a threshold for this reach of the river by the County. The WSEL difference between the pre- and post-project hydraulic modeling is shown as 0.05-feet, well within (and below) the 1-foot maximum indicated for this facility. Additionally, the assessment clarifies that the actual compost materials, do not meet the definition of ‘fill’ for FEMA purposes and would not be subject to the Temporary Suspension of FEMA CLOMR-F and LOMR-F Applications.

- e) Staff conducted a site inspection on July 27, 2023, to verify that the site is suitable for this use.
- f) The application, project plans, and related support materials submitted by the project applicant to the County of Monterey HCD - Planning for the proposed development found in Project File PLN200247.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, Environmental Health Bureau, and Gonzales Rural Fire Protection District. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Applicant has identified that there are 2-3 employees associated with the site. The application states that a portable site toilet is to be used to dispose of sewage. EHB has reviewed the application and found that it qualifies for exemption from flush toilet requirements, per Title 15 section 15.20.040 of Monterey County Code which allows for chemical toilets for mobile workplaces. The 2 to 3 employees that would be associated with the site are not stationed full-time and would come and go as deliveries and shipments for composts are scheduled. They would travel from the primary work location to the Gonzales site for various time intervals to perform work functions, characterizing the facility as a mobile workplace.
  - c) Staff conducted a site inspection July 27, 2023, to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the County of Monterey HCD - Planning for the proposed development found in Project File PLN200247.

4. **FINDING:** **VIOLATIONS** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance.

- EVIDENCE:**
- a) Staff reviewed County of Monterey HCD - Planning and HCD-Building Services records and is aware of violation (20CE00206) existing on subject property.
  - b) Staff conducted a site inspection on July 27, 2023, and determined that grading occurred at the proposed site for the levee and unpermitted storage of finished compost material without the proper entitlements. An after-the-fact grading permit (22CP01349) for the levee was approved and finalized on June 10, 2024, partially clearing the code enforcement violation.
  - c) The proposed project corrects the remaining violations. Once implemented, the project would bring the subject property into

compliance with all rules and regulations pertaining to the property and would remove the existing violation.

- d) Zoning violation abatement costs, have been paid.
- e) The application, plans and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development are found in Project File PLN200247.

5. **FINDING:** **CEQA(Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15304 which categorically exempts minor alteration to land.
  - b) The after-the-fact project is for an open-air storage facility for finished compost material and does not involve additional structures.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on July 27, 2023.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Project location does not have sensitive environment to be of significance. There is no anticipated cumulative impact as a result of the project since the subject property is a vacant lot without any prior successive projects of the same type in the same place, over time. There is no substantial evidence that would support a fair argument that the project has a reasonable possibility of having a significant effect on the environment or that it would result in a cumulative significant impact. The site is not included on any list compiled pursuant to Section 65962.5 of the Government Code to be considered on a hazardous waste site. No known historical resources are found on the site nor is it within an officially designated scenic highway.
  - e) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in Project File PLN200247.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.

**EVIDENCE:** Section 21.80.040 of the County of Monterey Zoning Ordinance (Title 21) states that the proposed project is appealable to the Planning Commission.

### **DECISION**

**NOW, THEREFORE,** based on the above findings and evidence, the Zoning Administrator does hereby:

1. Find the project exempt from CEQA pursuant to Section 15304 of the CEQA Guidelines and that none of the exceptions to this exemption listed in Section 15300.2 of the CEQA Guidelines apply; and
2. Approve an after-the-fact Use Permit to partially clear a Code Enforcement violation (20CE00206) and allow an agricultural support facility consisting of a storage site for finished compost product.

All of which are in general conformance with the attached plans and simulation, and subject to the conditions, all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of September 2024.

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Mike Novo, AICP  
County of Monterey Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE.

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE DATE.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

#### NOTES

1. You will need a building permit and must comply with the County of Monterey Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from County of Monterey HCD-Planning and HCD-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 5-14-2014

# County of Monterey HCD Planning

## DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN200247

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning

**Condition/Mitigation Monitoring Measure:** This Use Permit (PLN200247) allows an after-the-fact permit to partially clear a Code Enforcement violation (20CE00206) and allow an agricultural support facility consisting of a storage site for finished compost product. The property is located at 30053 Short Rd, Gonzales (Assessor's Parcel Numbers 216-032-015-000 & 216-032-016-000), Central Salinas Valley Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

### 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** Planning

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice. This notice shall state:  
"A Use Permit (Resolution Number \_\_\_\_\_) was approved by the Zoning Administrator for Assessor's Parcel Numbers 216-032-015-000 & 216-032-016-000 on September 26, 2024. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. HCD - Planning)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

### 3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

**Responsible Department:** Planning

**Condition/Mitigation Monitoring Measure:** If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.  
(HCD - Planning)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

### 4. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE

**Responsible Department:** Public Works

**Condition/Mitigation Monitoring Measure:** Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule.

**Compliance or Monitoring Action to be Performed:** Prior to issuance of Building Permits Owner/Applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the HCD-Engineering Services.

### 5. PW0045 – COUNTYWIDE TRAFFIC FEE

**Responsible Department:** Public Works

**Condition/Mitigation Monitoring Measure:** Prior to issuance of building permits, the Owner/Applicant shall pay the Countywide Traffic Fee or the ad hoc fee pursuant to General Plan Policy C-1.8. The fee amount shall be determined based on the parameters in the current fee schedule.

**Compliance or Monitoring Action to be Performed:** Prior to issuance of Building Permits, the Owner/Applicant shall pay Monterey County HCD-Building Services the traffic mitigation fee. The Owner/Applicant shall submit proof of payment to HCD-Engineering Services.

## 6. CC01 INDEMNIFICATION AGREEMENT

**Responsible Department:** County Counsel-Risk Management

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

## 7. PD006(A) - CONDITION COMPLIANCE FEE

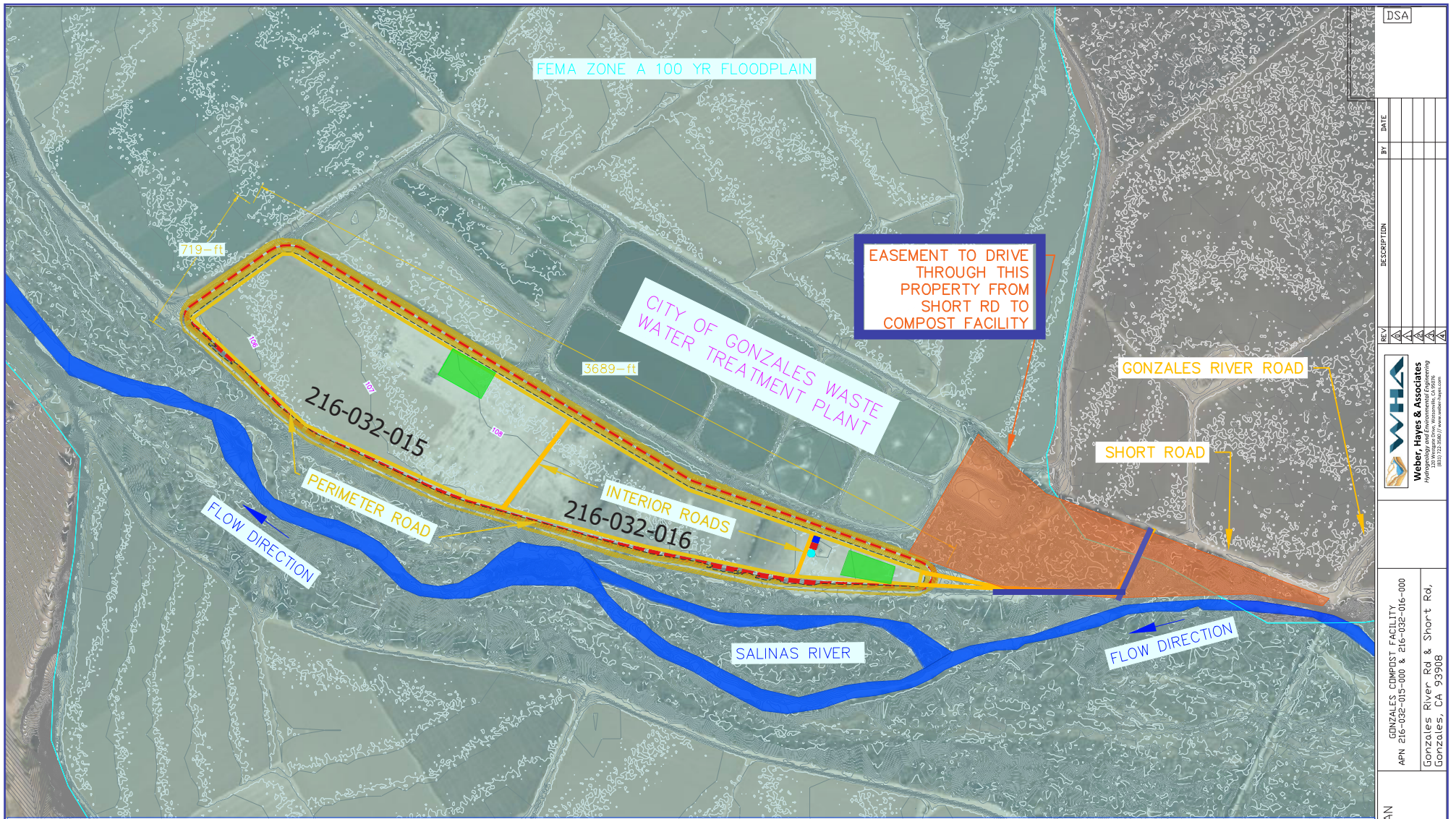
**Responsible Department:** Planning

**Condition/Mitigation Monitoring Measure:** The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

**Compliance or Monitoring Action to be Performed:** Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

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#### PROJECT DATA SUMMARY

- PARCEL SIZE: 51.665 ACRES (2,250,591 SQ FT) (COMBINED)
- GENERAL PLAN LAND USE DESIGNATION: FARMLANDS 40-160 AC MIN
- ZONING DESIGNATION: F/40 - FARMING W MINIMUM OF 40 AC
- LOT COVERAGE: N/A
- FAR: N/A
- GRADING: N/A
- TREE REMOVAL: N/A
- IMPERVIOUS COVERAGE:
- REQ & PROPOSED PARKING COUNTS: N/A

#### PARCEL A

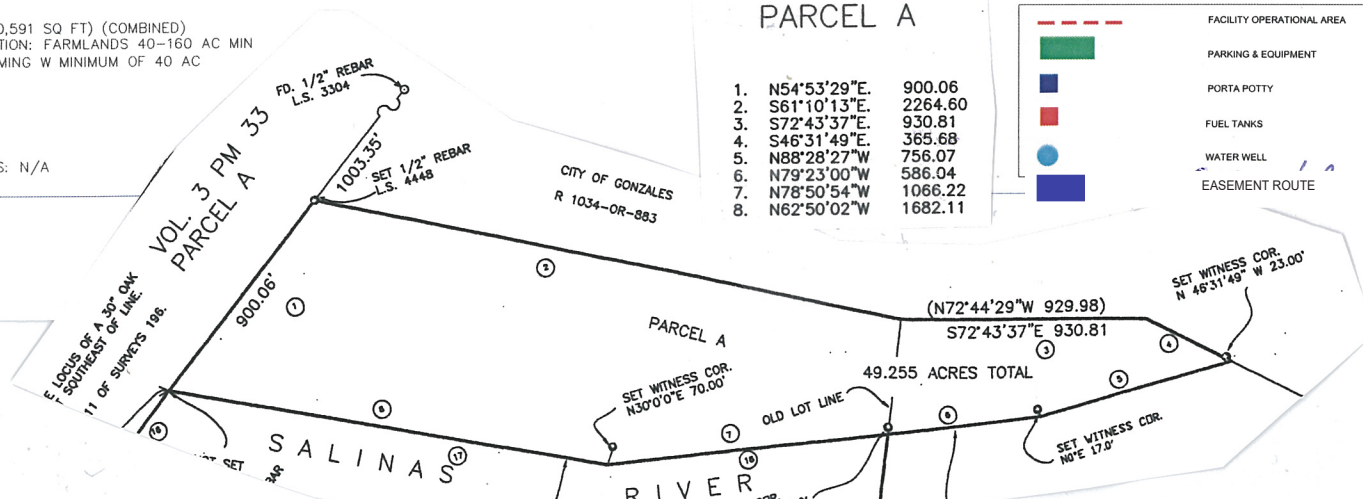
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2.	S61°10'13"E.	2264.60
3.	S72°43'37"E.	930.81
4.	S46°31'49"E.	365.68
5.	N88°28'27"W	756.07
6.	N79°23'00"W	586.04
7.	N78°50'54"W	1066.22
8.	N62°50'02"W	1682.11

#### LEGEND

<span style="color: red;">---</span>	FACILITY OPERATIONAL AREA
<span style="color: green;">■</span>	PARKING & EQUIPMENT
<span style="color: blue;">■</span>	PORTA POTTY
<span style="color: red;">■</span>	FUEL TANKS
<span style="color: blue;">●</span>	WATER WELL
<span style="color: blue;">—</span>	EASEMENT ROUTE



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# **Operation Plan**

## **Gonzales Compost Operation<sup>1</sup>**

30053 Short Road, Gonzales, CA  
APN's 216-032-015 & 216-032-016)  
Revised September 4, 2024  
PLN200247

The proposed project is an existing open-air compost staging located at 30053 Short Road in Gonzales, adjacent to the City of Gonzales wastewater treatment plant. Monterey County Housing and Community Development Department has determined that this composting operation requires a Use Permit.

The site is operated by Keith Day Company, Inc., a trucking, and compost operations entity. Keith Day owns the Keith Day Company. The Keith Day Company integrates trucking, delivery, and application services with the production of top-quality agricultural products.

The Gonzales Compost Facility is operated in conjunction with green waste composting at the ReGen site in Marina, formerly known as Monterey Regional Waste Management District. The Short Road site is a compost storage site where finished compost material is stored and transited through to delivery to the end users in the Salinas Valley, which are typically agricultural operators.

Operational characteristics include:

- 50,000 cubic yards of material will be stored/transported through the site in any given year;
- This would average approximately 173 truckloads a month or 7 truckloads a day or 14+/- to 20 trips a day.
- The site would be operated year-round. Peak season is typically August until heavy seasonal rains commence. Composted material is replenished throughout the year, weather permitting. Hours of Operation would be 6:00 AM to 5:00 PM during the peak season (June through November) and 7:00 AM to 4:00 PM in the slower months (December through May).
- There will be 2 – 3 employees associated with the site, depending on material delivery and scheduled orders for compost leaving the site.
- A loader and a water truck are the equipment to be used to maintain and load compost on the site;
- Equipment maintenance will be provided at off-site location(s).
- Seasonal Equipment Storage is for equipment associated with the composting operation. This would include semi-trucks, trailers, loader(s) a water truck, a spreader truck, and/or a



trommel screen.

- The compost is sold to customers in the Salinas Valley, generally defined as ZIP Codes 93925, 93926, 93927 and 93928.
- Signs. Other than the existing street address and a Keith Day Company Trucking sign, no further signage is proposed or needed.

A site plan is attached.

<sup>4</sup>The information contained consolidates information previously provided to Monterey County in letters dated 4/2/22, 9/7/22, 5/1/23, 6/1/23 and an 9/4/2024 e-mail from the project planner.